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           STIPULATION AND [PROPOSED] ORDER CONTINUING (1) BRIEFING SCHEDULE ON
    DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFF'S CROSS MOTION
28
     FOR SUMMARY JUDGMENT; (2) ENE COMPLETION DATE; (3) CLASS CERTIFICATION BRIEFING
                                SCHEDULE AND HEARING DATE
    USDC NDCA Case # CV09-0639 SI
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## UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 SAN FRANCISCO DIVISION DAPHNE P. RAND, by and through DEBRA J. ) Case No.: CV09-0639 SI DOLCH, as Conservator of the Person and Estate 5 of DAPHNE P. RAND, Conservatee, on Behalf of ) STIPULATION AND [PROPOSED] Themselves and All Others Similarly Situated, **ORDER CONTINUING (1) BRIEFING** 6 SCHEDULE ON DEFENDANT'S Plaintiff. MOTION FOR PARTIAL SUMMARY 7 JUDGMENT AND PLAINTIFF'S v. **CROSS MOTION FOR SUMMARY** 8 **JUDGMENT; (2) ENE COMPLETION** AMERICAN NATIONAL INSURANCE DATE; (3) CLASS CERTIFICATION COMPANY, a Texas corporation, BRIEFING SCHEDULE AND HEARING 10 Defendant. **DATE** 11 Honorable Susan Illston 12 13 14 15 This stipulation is made between Plaintiff Daphne P. Rand, by and through Debra Dolch, as 16 Conservator of the Person and Estate of Daphne P. Rand, ("Plaintiff") and Defendant American National Insurance Company ("ANICO" or "Defendant"), by and through their respective counsel, 17 18 based on the following: 19 WHEREAS, on February 26, 2010, Defendant filed a Motion for Partial Summary Judgment 20 ("Motion"); 21 WHEREAS, the Motion is currently set for hearing on the Court's docket for June 25, 2010 22 at 9:00 a.m. in Department 10. The hearing on Plaintiff's Motion to Substitute Class Representative 23 is also set for hearing on June 25, 2010; 24 WHEREAS, on June 1, 2010, Plaintiff filed her Response to Defendant's Motion for Partial 25 Summary Judgment and Cross Motion for Partial Summary Judgment ("Plaintiff's Cross Motion"), 26 raising arguments and issues not specifically addressed in Defendant's Motion; 27 STIPULATION AND [PROPOSED] ORDER CONTINUING (1) BRIEFING SCHEDULE ON DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFF'S CROSS MOTION 28 FOR SUMMARY JUDGMENT; (2) ENE COMPLETION DATE; (3) CLASS CERTIFICATION BRIEFING SCHEDULE AND HEARING DATE USDC NDCA Case # CV09-0639 SI

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WHEREAS, the date for filing Defendant's Response in Opposition to Plaintiff's Cross 1 Motion is June 22, 2010; 2 3 WHEREAS, the parties agree that Defendant may have additional time to prepare its 4 response to the issues raised in Plaintiff's Cross Motion and that Plaintiff may file a reply, if 5 necessary, in support of Plaintiff's Cross Motion; 6 WHEREAS, the parties respectfully submit that the current scheduling order on Defendant's 7 Motion should be modified to allow sufficient time for the parties to fully brief the issues raised by 8 Defendant's Motion and Plaintiff's Cross Motion; 9 WHEREAS, the parties also agree that the schedule for completion of the Early Neutral 10 Evalulation and the class certification briefing schedule should be adjusted so that the parties will 11 have the benefit of the Court's ruling on Defendant's Motion and Plaintiff's Cross Motion; and 12 WHEREAS, the parties agree, subject to the approval of the Court, that Plaintiff's Motion to 13 Substitute Estate of Daphne R. Rand and Debera J. Dolch, as Special Administrator of the Estate of 14 Daphne P. Rand, as Successor in Interest ("Plaintiff's Motion to Substitute") shall remain on the 15 June 25, 2010 docket for hearing at 9:00am. 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 STIPULATION AND [PROPOSED] ORDER CONTINUING (1) BRIEFING SCHEDULE ON DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFF'S CROSS MOTION

FOR SUMMARY JUDGMENT; (2) ENE COMPLETION DATE; (3) CLASS CERTIFICATION BRIEFING SCHEDULE AND HEARING DATE

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1	THEREFORE, the parties hereby stipulate to and respectfully request the Court to adopt the			
2	following modified pretrial schedule:			
3		<b>Current Date</b>	<b>Proposed Date</b>	
4	Hearing on Plaintiff's Motion to Substitute	June 25, 2010	June 25, 2010	
5 6	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment	June 16, 2010	July 12, 2010	
7 8	Defendant's Response to Plaintiff's Cross Motion	June 22, 2010	July 12, 2010	
9	Plaintiff's Reply to Defendant's Response to Plaintiff's Cross Motion for Partial Summary Judgment	None	July 26, 2010	
10 11	Hearing on Defendants Motion for Partial Summary Judgment and Plaintiff's Cross Motion	June 25, 2010	July 30, 2010 (9:00am) or a date convenient to the Court	
12				
13 14	Plaintiff's Motion for Class Certification and Designation of Class Certification Experts	August 24, 2010	September 21, 1010	
15 16	Defendant's Opposition to Motion for Class Certification and Designation of Rebuttal Class Certification Experts	October 12, 1010	November 9, 2010	
17	Plaintiff's Reply in Support of Motion for Class Certification	November 2, 2010	November 30, 2010	
18	Hearing re: Motion for Class Certification	November 19, 2010	December 20, 2010	
19 20	Deadline for ENE	June 15, 2010	November 30, 2010	
21	DATED: June 8, 2010 WILSON ELSER MOSKOWITZ EDELMAN & DICKER			
22				
23	By: <u>/s/Thomas M. Herlihy</u> THOMAS M. HERLIHY			
24	Attorneys for Defendant AMERICAN NATIONAL INSURANCE COMPANY			
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27	STIPULATION AND [PROPOSED] ORDER	4 STIPULATION AND [PROPOSED] ORDER CONTINUING (1) BRIEFING SCHEDULE ON		
28	DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFF'S CROSS MOTION FOR SUMMARY JUDGMENT; (2) ENE COMPLETION DATE; (3) CLASS CERTIFICATION BRIEFING SCHEDULE AND HEARING DATE USDC NDCA Case # CV09-0639 SI			
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## Case 3:09-cv-00639-SI Document 120 Filed 06/15/10 Page 5 of 6 1 DATED: June 8, 2010 BONNETT, FAIRBOURN, FRIEDMAN & BALINT P.C. 2 3 By: /s/Andrew S. Friedman ANDREW S. FRIEDMAN 4 Attorneys for Plaintiff DAPHNE P. RAND, by and through DEBRA J. DOLCH, as Conservator of the 5 Person and Estate of DAPHNE P. RAND, Conservatee 6 7 ATTESTATION OF SIGNATURE 8 Pursuant to General Order No. 45, § X(b), I hereby attest under penalty of perjury that 9 concurrence in the filing of the document has been obtained from all signatories. 10 DATED: June 8, 2010 WILSON ELSER MOSKOWITZ EDELMAN & DICKER 11 By: /s/Thomas M. Herlihy 12 THOMAS M. HERLIHY 13 14 15 **ORDER** 16 IT IS SO ORDERED. 17 18 Date: By: HONORABLE SUSAN ILLSTON 19 United States District Judge 20 21 22 23 24 25 26 27 STIPULATION AND [PROPOSED] ORDER CONTINUING (1) BRIEFING SCHEDULE ON DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFF'S CROSS MOTION 28 FOR SUMMARY JUDGMENT; (2) ENE COMPLETION DATE; (3) CLASS CERTIFICATION BRIEFING SCHEDULE AND HEARING DATE USDC NDCA Case # CV09-0639 SI

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## **CERTIFICATE OF SERVICE** 1 2 I hereby certify that on June 8, 2010, I electronically filed the foregoing with the Clerk of 3 the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List. 4 5 I certify under penalty of perjury under the laws of the United States of America that the 6 foregoing is true and correct. Executed on June 8, 2010. 7 8 /s/ Shivani Nanda SHIVANI NANDA 9 WILSON, ELSER, MOSKOWITZ, 10 **EDELMAN & DICKER LLP** 525 Market Street, 17<sup>th</sup> Floor 11 San Francisco, California 94105 (415) 433-0990 Tel: 12 (415) 434-1370 Fax: 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 STIPULATION AND [PROPOSED] ORDER CONTINUING (1) BRIEFING SCHEDULE ON DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFF'S CROSS MOTION 28 FOR SUMMARY JUDGMENT; (2) ENE COMPLETION DATE; (3) CLASS CERTIFICATION BRIEFING SCHEDULE AND HEARING DATE

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